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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,108	10/08/2003	Ta-Kuang Yeh	OP-092000277	4465
46103	7590	07/13/2006		EXAMINER
HDSL 4331 STEVENS BATTLE LANE FAIRFAX, VA 22033			STERLING, AMY JO	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/680,108	YEH, TA-KUANG	
	<b>Examiner</b>	<b>Art Unit</b>	
	Amy J. Sterling	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 May 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3,5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,5 and 6 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED ACTION

This is the **Final Office Action** for application number 10/680,108 Supporting Structure, filed on 10/8/03. Claims 1-3, 5 and 6 are pending. This **Final Office Action** is in response to applicant's reply dated 5/15/06. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

Claim 1, line 4, recites, "until subsequently reposition" and this should be changed to "until subsequently repositioned" or "until subsequent repositioning".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 recites that "by hand without a tool". This subject matter was not included in the original disclosure and therefore constitutes new matter and must be cancelled from the claim.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites that the "by hand without a tool" and the claim is indefinite because hands may be of different strengths and it is unclear as to what is meant by a tool.

Claim 1 recites the limitation "the middle" in line 9. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5810306 to Hung et al. and in view of United States Publication No. 2004/0047052 to Zadro and in view of United States Patent No. 314,440 to Eames.

Hung et al. teaches every feature of the claimed invention including an elongate body member (10) made of a flexible aluminum material (See Col. 3, line 2-3) with a roughened surface and being bendable and foldable by hand without a tool to any degree desired while it retains the bent shape until subsequent repositioning, an exterior cover member (41) made of soft plastic material (See Col. 3 line 48) directly formed on a substantial full length of the elongate body (the process by which the device is formed is not given structural weight as pertaining to the "injection molding" of claim 1) and has a bellow configuration wherein the exterior covering member exposes two exposed ends (13), exposed from the exterior covering member of the elongate body member (10) and a holding device (50) connected to the other exposed end of the elongate body member.

Hung et al. does not teach a suction disk device connected to one of the exposed end of the elongate body member.

Zadro discloses an elongate body member (33) having two exposed ends with a suction disk device (55) connected to an exposed end of the elongate body member, the suction disk used to removably attach the elongate body member to a desired surface. Therefore, it would have been obvious to one of ordinary skill in the art from the teachings of Zadro to have added a suction device to an exposed end of the elongate body member in order to be able to attach device to the desired surface.

Hung et al. and Zadro do not teach wherein the exterior covering member has a diameter gradually reduced from the two ends (48) to a middle thereof.

Eames teaches a covering member (B) for covering a flexible member (A), the covering member which gradually reduces in diameter from the two ends to a middle, to make it easier to bend in the middle. Therefore, it would have been obvious to one of ordinary skill in the art from the teachings of Eames to have substituted the cover for a cover with a gradually reduced diameter in the middle in order to more easily bend the cover with the flexible member.

### ***Response to Arguments***

The applicant has argued that neither the Hung et al. or the Zadro reference teach wherein the elongate body member is formed by injection molding. The applicant is attempting to incorporate the process of making the device into an apparatus claim and although this is not improper in form, the process of making does not obtain structural weight for patentability and therefore does not have to be shown by the references in order for the claims to be fully rejected.

The applicant has also argued that neither Hung et al. or Zadro disclosed a cover member that has a diameter which is gradually reduced from two ends of the elongate body member toward the middle. This is unpersuasive in that the rejection uses the combination of the Eames reference for this teaching, a reference which the applicant has not mentioned in the argument. The Eames reference clearly shows the limitation as recited above.

***Conclusion***

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The fax machine number for the Technology center is 571-273-8300 (formal amendments) or 571-273-6823 (informal communications only). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.

*Amy J. Sterling*  
Amy J. Sterling  
Primary Examiner  
6/27/06